

Annex C: County Capability Assessment

I. Purpose.

To identify and define the capabilities that Cabarrus County has available to implement and enforce a hazard mitigation plan.

II. Situation and Assumptions.

A. The ability of a community to develop an effective hazard mitigation plan depends upon its capability to implement policy and programs. This is accomplished through the legal, technical, and fiscal capabilities of the local government.

III. Demographic Overview

A. General Description. Cabarrus County is located in the southern Piedmont section of the state and covers an area of 364 square miles. It is bordered to the west by Mecklenburg County, to the southeast by Union County, to the north by Rowan County, to the northwest by Iredell County and to the east by Stanly County. The county seat is Concord. Cabarrus County is located in Area 11 of the Western Branch, North Carolina Division of Emergency Management and FEMA Region IV.

B. Population. The population of the County and municipalities within the County is 168,740 (as of 2008). There are 360.1 people per square mile. Nearly 70% of this population lives in the six municipal areas in the county: Concord, Kannapolis, Mt. Pleasant, Harrisburg, Midland and Locust. (The town of Locust is in Stanly County, but has expanded into Cabarrus County in the past five years.) The three municipalities included in this plan have the following populations as of 2008: Mount Pleasant, 1548; Harrisburg, 6179; and Midland, 3255.

C. Economy. The textile industry in Cabarrus County, once the principal industry in the county, has declined to the point it is no longer a major employer. The largest manufacturing plant was the Philip Morris cigarette plant in Concord until it was closed in 2008. Other industries include construction, light manufacturing and transportation. The county is home to two of the state's most popular tourist attractions: Charlotte Motor Speedway and the Concord Mills shopping mall.

IV. Institutional Capability

A. Cabarrus County is a local government body with a Board-Manager form of government. The elected Board of Commissioners is the decision-making body for the County. The appointed Planning and Zoning Board serves as an advisory body to the elected Board on planning matters. The County has a number of professional staff departments to serve the citizens of the County and to carry out day-to-day administrative activities.

B. The municipalities of Mount Pleasant, Harrisburg, and Midland are local government bodies with a City Council-Mayor form of government. The city council is the decision-making body for each of these municipalities. An appointed municipal Planning and Zoning Board serves as an advisory body to the council on planning matters. Each of these municipalities has a small staff to carry out day-to-day administrative activities. Cabarrus County Government supports these three municipalities by providing services from the county's staff departments to provide services and conduct operations that the municipalities are not organized to perform. This is done through contracts between the county and the municipalities. None of these municipalities have planning, zoning or emergency management capabilities and the Cabarrus County Commerce Department and Emergency Management Department provide the support required, based on input from those local governments.

V. Legal Capabilities of Local Governments in North Carolina

A. Cabarrus County and the towns of Mount Pleasant, Harrisburg and Midland have a wide array of powers as a result of North Carolina legislation. These powers enable the County and the municipalities to adopt and implement policies and ordinances that may be used to mitigate the potential harmful effects of natural hazards. Below is a summary of the legal authority and powers that North Carolina has conferred on local governments within the state. These powers fall into four broad categories: regulation, acquisition, taxation, and spending.

B. Regulation

1. General Police Power. Local governments in North Carolina have been granted broad regulatory powers in their jurisdictions. North Carolina General Statutes (NCGS) bestow the general police power on local governments, allowing them to enact and enforce ordinances which define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, and welfare of the people, and to define and abate nuisances (including public health nuisances). Since hazard mitigation can be included under the police power (as protection of public health, safety and welfare), towns, cities, and counties may include requirements for hazard mitigation in local ordinances. Local governments may also use their ordinance-making power to abate "nuisances," which could include, by local definition, any activity or condition making people or property more vulnerable to any hazard (NCGS 160A Art. 8 (Delegation and Exercise of the General Police Power to Cities and Towns); 153A, Art. 6 (Delegation and Exercise of the General Police Power to Counties)).

2. Building Codes and Building Inspection.

(a) Many structural mitigation measures involve constructing and retrofitting homes, businesses and other structures according to standards designed to make the buildings more resilient to the impacts of natural hazards. Many of these standards are imposed through the building code.

(b) North Carolina has a state compulsory building code, which applies throughout the state (NCGS 143-138(c)). However, municipalities and counties may adopt codes for their respective areas if approved by the state as providing “adequate minimum standards” (NCGS 143-138(e)). Local regulations cannot be less restrictive than the state code. Exempted from the state code are: public utility facilities other than buildings; liquefied petroleum gas and liquid fertilizer installations; farm buildings outside municipal jurisdictions. No state permit may be required for structures under \$20,000. (Note that exemptions apply only to state, not local permits).

(c) Local governments in North Carolina are also empowered to carry out building inspection. NCGS 160A, Art. 19, Part 5; and 153A Art. 18, Part 4 empower cities and counties to create an inspection department, and enumerates its duties and responsibilities, which include enforcing state and local laws relating to the construction of buildings, installation of plumbing, electrical, heating systems, etc.; building maintenance; and other matters.

C. Land Use. Regulatory powers granted by the state to local governments are the most basic manner in which a local government can control the use of land within its jurisdiction. Through various land use regulatory powers, a local government can control the amount, timing, density, quality, and location of new development. All these characteristics of growth can determine the level of vulnerability of the community in the event of a natural hazard. Land use regulatory powers include the power to engage in planning, enact and enforce zoning ordinances, floodplain ordinances, and subdivision controls.

D. Zoning. Zoning is the traditional and nearly universal tool available to local governments to control the use of land. Broad enabling authority for municipalities in North Carolina to engage in zoning is granted in NCGS 160A-381; and for counties in NCGS 153A-340 (counties may also regulate inside municipal jurisdiction at the request of a municipality (NCGS 160A-360(d)). The statutory purpose for the grant of power is to promote health, safety, morals, or the general welfare of the community. Land “uses” controlled by zoning includes the type of use (e.g., residential, commercial, industrial) as well as minimum specifications for use such as lot size, building height and set backs, density of population, and the like. The local government is authorized to divide its territorial jurisdiction into districts, and to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land within those districts (NCGS 160A-382). Districts may include general use districts, overlay districts, and special use or conditional use districts. Zoning ordinances consist of maps and written text.

E. Floodplain Regulation.

1. In the summer of 2000, the North Carolina General Assembly adopted an act entitled “An Act to Prevent Inappropriate Development in the One Hundred-Year Floodplain and to Reduce Flood Hazards”. By this act, the North Carolina statutes regulating development within floodways were rewritten to include floodplain regulation (NCGS 143- 214.51-214.61). The purpose of the new law is to:

- Minimize the extent of floods by preventing obstructions that inhibit water flow and increase flood height and damage.
- Prevent and minimize loss of life, injuries, property damage, and other losses in flood hazard areas.
- Promote the public health, safety, and welfare of citizens of North Carolina in flood hazard areas.

2. The new statute authorizes local governments to adopt a flood hazard prevention ordinance to regulate uses in flood hazard areas and to grant permits for the use of flood hazard areas that are consistent with the requirements of the statute. The statute provides for certain uses within flood hazard areas without a permit consistent with local land use ordinances (NCGS 143-215.54).

3. The statute establishes minimum standards for local ordinances and provides for variances for prohibited uses as follows:

(a) A flood hazard prevention ordinance adopted by a county or city pursuant to this Part shall, at a minimum:

- Meet the requirements for participation in the National Flood Insurance Program and of this section.
- Prohibit new solid waste disposal facilities, hazardous waste management facilities; salvage yards, and chemical storage facilities in the 100-year floodplain except as noted in section (b) below.
- Provide that a structure or tank for chemical or fuel storage incidental to a use that is allowed under this section or to the operation of a water treatment plant or wastewater treatment facility may be located in a 100-year floodplain only if the structure or tank is either elevated above base flood elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(b) A flood hazard prevention ordinance may include a procedure for granting variances for uses prohibited under G.S. 143-215.54(c). A county or city shall notify the Secretary (of Crime Control and Public Safety) of its intention to grant a variance at least 30 days prior to granting the variance. A county or city may grant a variance upon finding that all of the following apply:

- The use serves a critical need in the community.
- No feasible location exists for the location of the use outside the 100-year floodplain.
- The lowest floor of any structure is elevated above the base flood elevation or is designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- The use complies with all other applicable laws and regulations. The statute authorizes priority ratings for local government applications for revolving loans or grants based on adoption of a local comprehensive land use plan, a zoning ordinance, or other measure that significantly contributes to the implementation of the comprehensive land use plan and a flood hazard ordinance.

4. The Floodplain Act also instructed the Environmental Review Commission to study and reports its findings to the 2002 General Assembly on the need to:

- Increase the minimum elevation requirements
- Increase the authority of the Secretary of Crime Control and Public Safety to enforce the new statute
- Increase protection against the potential recurrence of damage to public and private property that resulted from the hurricanes of 1999, and other measures to reduce the likelihood that public assistance will be needed in response to future hurricanes and other storm events.

F. Planning - In order to exercise the regulatory powers conferred by the General Statutes, local governments in North Carolina are required to create or designate a planning agency (NCGS 160A-3 87). The planning agency may perform a number of duties, including: make studies of the area; determine objectives; prepare and adopt plans for achieving those objectives; develop and recommend policies, ordinances, and administrative means to implement plans; and perform other related duties (NCGS 160A-361). The importance of the planning powers of local governments is emphasized in NCGS 160A-383, which requires that zoning regulations be made in accordance with a comprehensive plan. While the ordinance itself may provide evidence that zoning is being conducted “in accordance with a plan”, the existence of a separate planning document ensures that the government is developing regulations and ordinances that are consistent with the overall goals of the community.

G. Subdivision Regulation

1. Subdivision regulations control the division of land into parcels for the purpose of building development or sale. Flood-related subdivision controls typically require installation of adequate drainage facilities, and design water and sewer systems to minimize flood damage and contamination. They prohibit the subdivision of land subject to flooding unless flood hazards are overcome through filling or other measures and prohibit filling of floodway areas. They require that subdivision plans be approved prior to the sale of land. Subdivision regulations are a more limited tool than zoning and only indirectly affect the type of use made of land or minimum specifications for structures.

2. Broad subdivision control enabling authority for municipalities is granted in NCGS 160-371, and in 153-330 for counties outside of municipalities and municipal extraterritorial areas. Subdivision is defined as all divisions of a tract or parcel of land into two or more lots and all divisions involving a new street. (NCGS 160A-376). The definition of subdivision does not include the division of land into parcels greater than 10 acres where no street right-of-way dedication is involved (NCGS 160A-376(2)).

3. The community thus possesses great power (in theory, anyway) to prevent unsuitable development in hazard-prone areas. (NCGS 160A, Art. 8. (Delegation and Exercise of the General Police Powers to Cities and Towns); Art. 19 (Planning); Part 3 (Zoning); and 153A. Art. 6 (Delegation and Exercise of the General Police Power to Counties; Art. 18 (Planning and Regulation of Development); Part 2 (Subdivision Regulation); Part 3 (Zoning)).

H. Acquisition. The power of acquisition can be a useful tool for pursuing mitigation goals. Local governments may find the most effective method for completely “hazard-proofing” a particular piece of property or area is to acquire the property (either in fee or a lesser interest, such as an easement), thus removing the property from the private market and eliminating or reducing the possibility of inappropriate development occurring. North Carolina legislation empowers cities, towns, and counties to acquire property or public purpose by gift, grant, devise, bequest, exchange, purchase, lease or eminent domain (NCGS 153A. Art. 8; 160A. Art. 11).

VI. Fiscal Capabilities.

A. Beyond legal authority and political willpower, fiscal capability is a key component to effectively developing and implementing a hazard mitigation plan. Cabarrus County and the towns of Mount Pleasant, Harrisburg and Midland share the same fiscal capabilities listed below. Cabarrus County assists these three municipalities in the collection of tax revenue. In addition to local tax funds, local governments can also apply for State and Federal funds to implement hazard mitigation initiatives. Additionally, non-profits and other non-governmental organizations are often interested in helping to implement hazard mitigation projects.

B. Taxation.

1. The power to levy taxes and special assessments is an important tool delegated to local governments by North Carolina law. The power of taxation extends beyond merely the collection of revenue, and can have a profound impact on the pattern of development in the community. Many communities set preferential tax rates for areas, which are unsuitable for development (e.g., agricultural land, wetlands), and can be used to discourage development in hazardous areas.

2. Local units of government also have the authority to levy special assessments on property owners for all or part of the costs of acquiring, constructing, reconstructing, extending or otherwise building or improving beach erosion control or flood and hurricane protection works within a designated area (NCGS 160A-238). This can serve to increase the cost of building in such areas, thereby discouraging development.

3. Because the usual methods of apportionment seem mechanical and arbitrary, and because the tax burden on a particular piece of property is often quite large, the major constraint in using special assessments is political. Special assessments seem to offer little in terms of control over land use in developing areas. They can, however, be used to finance the provision of necessary services within municipal or county boundaries. In

addition, they are useful in distributing to the new property owners the costs of the infrastructure required by new development.

C. Spending.

1. The fourth major power that has been delegated from the North Carolina General Assembly to local governments is the power to make expenditures in the public interest. Hazard mitigation principles should be made a routine part of all spending decisions made by the local government, including annual budgets and a Capital Improvement Plan (CIP).

2. A CIP is a schedule for the provision of municipal or county services over a specified period of time. Capital programming, by itself, can be used as a growth management technique, with a view to hazard mitigation. By tentatively committing itself to a timetable for the provision of capital to extend services, a community can control its growth to some extent especially where the surrounding area is such that the provision of on-site sewage disposal and water supply are unusually expensive.

3. In addition to formulating a timetable for the provision of services, a local community can regulate the extension of and access to services. A CIP that is coordinated with extension and access policies can provide a significant degree of control over the location and timing of growth. These tools can also influence the cost of growth. If the CIP is effective in directing growth away from environmentally sensitive or high hazard areas, for example, it can reduce environmental costs.

D. Local Funds. In the State of North Carolina, property taxes provide the primary source of revenue for counties. These taxes are typically used primarily to finance services that must be available and delivered on a daily basis, such as schools, health and social services, planning, solid waste management, and emergency services, leaving very little, if any, for additional services and projects. Fortunately, State and Federal funds are available to local governments for the development and implementation of hazard mitigation programs.

E. Non-Governmental Funds. Another potential source of revenue for local mitigation efforts, are the contribution of non-governmental organizations, such as churches, charities, community relief funds, the Red Cross, hospitals, for-profit businesses, and nonprofit organizations. A variety of these local organizations can be tapped to help carry out local hazard mitigation initiatives.

F. State and Federal Funds

1. There are many sources of Federal and State funding available to local governments for the purpose of implementing hazard mitigation plans. These programs include Hazard Mitigation Grants, Flood Mitigation Assistance Programs, and the Community Development Block Grants.

2. The Hazard Mitigation Grant Program (HMGP) provides funding for mitigation measures following a presidential disaster declaration. The HMGP is funded in most part by the Federal government and administered by respective state governments. HMGP

funds can be used for such projects as acquisition or relocation, retrofitting, development of local mitigation standards and comprehensive mitigation plans, structural hazard control and the purchase of equipment to improve preparedness and response.

3. The Flood Mitigation Grant Program (FMAP) is a federally funded program for mitigation assistance to states, communities and individuals for cost-effective measures to reduce or eliminate the long-term risk of flood damage to the built environment and to real property. Unlike the HMGP, FMAP is available to eligible communities on an annual basis. An eligible community must be a participant in the National Flood Insurance Program and must develop a flood mitigation plan. FMAP funds may be used for such projects as elevation and/or dry flood proofing of structures, acquisition of real property, relocation or demolition of structures, and minor structural projects.

4. The Community Development Block Grant (CDBG) is another source of funding for hazard mitigation initiatives. The objective of the CDBG program is to assist communities in rehabilitating substandard dwelling structures and to expand economic opportunities, primarily for low-to-moderate-income families. However, as a result of a Presidential declared disaster, CDBG funds may be used for long-term needs such as acquisition, reconstruction, and redevelopment of disaster-affected areas.

G. Ability to Pay

1. In recognition of the disparate economic prosperity of the State's one hundred counties, the North Carolina Department of Commerce ranks counties in an economic tier system. The impetus for this system was the William S. Lee Quality Jobs and Business Expansion Act of 1996 which provides for a sliding scale of state tax credits for economic investment. The Lee Act has become the state's main development tool in an effort to help smaller rural counties be more economically competitive.

2. The most economically distressed counties are ranked in Tier 1 and the most economically prosperous in Tier 5. The rankings are evaluated annually using three factors – population growth, unemployment rate, and per capita income. The 2004 County Tier Designation places Cabarrus County in Tier 5. The tier ranking is now widely used by the State as a measure of an individual county's ability to pay when applying for state and federal grants.

VII. Technical Capability

A. Effective hazard mitigation initiatives depend largely on a community's technical capability. Local governments such as Cabarrus County typically have limited technical capability due to a lack of funding and human resources. There are, however, several technical sources available at the county level, at the University of North Carolina at Charlotte, and at State and Federal levels of government.

B. Cabarrus County

1. Cabarrus County operates a geographic information system (GIS) that provides essential information and technology for hazard response and mitigation. The GIS system

provides detailed data on property ownership, land use type, and location. GIS allows this information to be displayed visually to assist in hazard mitigation planning.

2. The GIS provides fast access to and processing of detailed data that can be used to assist in deployment of resources before, during, and after a natural disaster. The system also permits data and visual analysis of the impacts of past storm events thereby assisting in planning for mitigation of future natural disasters.

C. Mount Pleasant, Harrisburg, and Midland. These municipalities have limited personnel to provide technical capabilities as part of their organization. Cabarrus County government provides services to the municipalities as requested.

D. University of North Carolina at Charlotte. The University of North Carolina at Charlotte, one of the sixteen campuses of the North Carolina University System, is located a few miles southwest of Cabarrus County. The university can provide information and resources to assist the development of mitigation initiatives.

E. State and Federal Agencies.

1. Agencies such as the Federal Emergency Management Association (FEMA) and the North Carolina Division of Emergency Management (NCDEM) have made available numerous implementation manuals and other resource documents. These manuals provide information on mitigation techniques for various hazards, including hurricanes, floods, wildfires, tornadoes and earthquakes.

2. The manuals include information on engineering principles, construction methods, costs and suggestions for how techniques can be financed and implemented. Other Federal agencies such as, the U.S. Army Corps of Engineers and Soil Conservation Service also provide similar services. The North Carolina Division of Emergency Management works in concert with these various Federal agencies to ensure that the State and local governments are prepared to respond to natural disasters. A major effort to improve technical information available to local governments is being undertaken by the State of North Carolina and the Federal Emergency Management Agency.

F. Statewide Floodplain Mapping Initiative

1. The State of North Carolina, through the Federal Emergency Management Agency's Cooperating Technical Community partnership initiative, has been designated as a Cooperating Technical State (CTS). As a CTS, the State will assume primary ownership and responsibility for Flood Insurance Rate Maps (FIRMs) for all North Carolina communities. This project will include conducting flood hazard analysis and producing updated, digital FIRMs (DFIRMs).

2. The updated flood hazard data will provide current, accurate information for communities and property owners to make sound design decisions when building new structures and infrastructure and when retrofitting existing structures. If used by communities for floodplain management, this will dramatically reduce long-term flood losses in North Carolina. This initial mapping project will address the eastern six river

basins, which were the basins most impacted by Hurricane Floyd. These river basins account for approximately one-half of area of the State, impact 48 counties and 334 incorporated municipalities, and encompass over 21,000 miles of streams and rivers.

VIII. Political Capability

1. The county and the municipalities are committed to incorporating hazard mitigation planning and activities into county and town operations. Many of the mitigation strategies are in effect through existing county ordinances, most notably the Flood Damage Prevention Ordinance (see Annex D, Evaluation of County Policies and Ordinances).
2. The towns of Mt. Pleasant, Harrisburg, and Midland implement these county ordinances as their own regulatory policies. They enforce them through the appropriate county agency or through local boards as appropriate.

This page is intentionally blank.